RSC
Republican Study Committee

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Legislative Bulletin……………………………………September 27, 2007

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H.R. 3567—Small Business Investment Expansion Act of 2007

Summary of the Bills Under Consideration Today:

Total Number of New Government Programs: 1

Total Cost of Discretionary Authorizations: $38 million in FY 2008 and $102 million over the FY 2008 – FY 2009 period.

Effect on Revenue: $0

Total Change in Mandatory Spending: $0

Total New State & Local Government Mandates: 0

Total New Private Sector Mandates: 0

Number of *Bills* Without Committee Reports: 0

Number of *Reported* Bills that Don't Cite Specific Clauses of Constitutional Authority: 0

H.R. 3567—Small Business Investment Expansion Act of 2007 (*Rep. Altmire, D-PA*)

Order of Business: The bill is scheduled to be considered on Thursday, September 27th, likely subject to a structured rule. The RSC will summarize any amendments made in order under the rule in a separate RSC document.

Summary: H.R. 3567 would expand the scope of the SBA's Small Business Investment Company program and New Markets Venture Capital program, create a new federal investment and grant program, revise the Surety Bond Program, and redefine the what businesses are considered "independently owned and operated." The specific provisions are listed below.

Title I — Small Business Investment Company (SBIC) Program

- Modifies the Small Business Investment Company (SBIC) program, which provides funding for Small Businesses Investment Companies (SBICs), by increasing the amount of debt a SBIC can carry to 300 percent of the company's private capital or $150 million (the current maximum varies between $15 and $75 million or 100 and 300 percent of the company's private capital).

- Increases the maximum amount of debt a SBIC can carry to $175 million if the company is majority owned by **socially or economically disadvantaged individuals, which include women and minorities, veterans, or members of the National Guard.**

- Requires that each licensed SBIC certify that at least 25 percent of the company's aggregate amount of financing will be provided to "smaller enterprises," defined as a business concern with a net worth of not more than $6 million and an average net two-year income of no more than $2 million.

- Limits SBA financing for any small business investment company with outstanding financing to 10 percent of the sum of the company's private capital and the total amount of leverage projected in the company's SBA-approved business plan.

Title II — New Markets Venture Capital (NMVC) Program

- Reauthorizes the New Markets Venture Capital (NMVC) Program, which guarantees loans and make grants to companies that provide equity and assistance to small businesses in economically distressed areas. The bill also modifies the language of the original NMVC authorization to state the SBA "shall" carry out the program rather than "may" carry out the program..

- Requires the SBA, to the maximum extent possible, to consider geographic selection criteria when issuing NMVC financing and approve at least one NMVC company from each SBA geographic region.

- Reduces the amount of private capital that an NMVC is required to raise from $5 million to $3 million if the company is primarily engaged in development and investment in small manufacturers.

- Requires the SBA's Chief Counsel for Advocacy to conduct and submit a study on the availability of equity capital in low-income areas and defines "low-income geographic area" as an area with a poverty level at or above 20 percent.

- Authorizes the SBA to make **grants of up to $50,000 to conditionally approved NVMC companies** and requires any company that receives a grant and is not approved to repay the grant. This section also limits the time for the SBA's final approval to two years.

- **Eliminates the requirement that companies have matching commitments of at least 30% of the total amount that the company has raised before final approval, thus there is no monetary threshold for approval.**

- Requires that the amount of an operational assistance grants made to a New Markets Venture Capital shall be equal top 10 percent of the resources raised by the company or $1 million.

- **Authorizes $30 million for FY 2008 – FY 2010 to guarantee debentures and $5 million over the same period for making grants for NMVC programs**. The bill also requires that 25 percent of the authorized funds to go to manufacturing firms.

Title III — Angel Investment Program

- **Establishes the Office of Angel Investment, a Director of Angel Investments**, **and new federal financing and grant programs** to create "investment opportunities" for small business concerns.

- Defines an "angel investor" as an accredited investor who provides capital to or makes investments in a small business concern. Defines "angel group" as ten or more angel investors organized to make investments in local business concerns that consist primarily of angel investors or require angel investor to be accredited.

- Establishes the **Angel Investment Program** to provide financing to angel groups for the purpose of providing up to **$2 million in venture capital investments for small businesses.** Angel groups would repay funds from investment profits into the Angel Investment Fund, which would be used to continue funding the program. Authorizes **$50 million over the FY 2008 – FY 2010 period to finance the program.**

- **Authorizes $4.5 million over the FY 2008 – FY 2010 period to establish a new program to make grants** to entities that purpose to develop new or existing angel groups and to increase awareness and education about angel groups.

- Authorizes **$1 million** to establish the **Federal Angel Network**, a searchable database to assist small business concerns in identifying angel investors.

Title IV — Surety Bond Program

- Establishes a program that would allow a surety to have the authority to issue, monitor, service, and renew bonds from the SBA without obtaining specific approval.

- Increases the SBA's threshold for guaranteeing a surety against loss resulting from a breach of the terms of a bond by a principal on any total work order or contract from **$2 million to $3 million.**

Title V — Venture Capital Investment Standards

- Prohibits venture capital investments that a business concern receives from being taken into consideration when determining whether or not a business in independently owned and operated. **This has the net affect of allowing large venture capital companies that finance multiple businesses to be considered small businesses so long as the individual business are considered to be small. This would allow companies that are NOT primarily owned and controlled by small business persons to obtain SBA grants.**

- Defines an "independently owned and operated" business concern as one that is owned and operated by one or more persons or is a **Venture Capital Operating Company** as defined by the Secretary of Labor and having less than 500 employees.

Title VI — Regulations

- Requires the SBA Administrator to issue necessary revisions to existing regulations within 90 days of enactment.

Additional Background: The SBA operates nine different capital access and entrepreneurial development programs that provide, among other things, loan guarantees, surety bonds, technical assistance, and research grants to support small businesses. The current programs are:

- Small Disadvantaged Businesses (SDBs)
- Historically Underutilized Business Zones (HUBZones)
- Office of Small and Disadvantaged Business Utilization (OSDBU)
- Surety Bonds
- Small Business Innovation Research Awards (SBIR)
- Small Business Technology Transfer (STTR) Awards
- Small Business Investment Companies (SBICs)
- New Market Venture Capital (NMVC)
- Small Business Development Centers (SBDC)

Of these programs, the SBIC, the NMVC, and Surety Bonds are expanded or altered by this legislation. The SBIC program consists of privately owned companies that are licensed by the SBA to provide debt for small business, that is, businesses with a net worth of less than $18 million and an average income for the two preceding years of $6 million or less. Currently these companies may obtain loans from the SBA to supplement their own capital. The NMVC program serves the same function of the SBIC, except with a scope that is limited to low-income areas. The Angel Investment Plan would serve a similar purpose as theses two programs, but would be limited to providing assistance through "Angel Groups."

On May 10, 2006, the Small Business Committee held a hearing on the ACE Act (H.R. 5198), a bill in the 109th Congress that would have copied many state's examples by giving tax credits to angel investors who made investments in qualified business. **During the hearing, all but one of the witnesses testified that granting tax credits to angel groups would be a better way to assist entrepreneurs that seek access to capital than creating a new SBA program (i.e. the Angel Investment Program).** According to Lorrie Keating Heinemann, Secretary of the Wisconsin Department of Financial Institutions, a tax credit package would be a "win-win proposal" because "it leverages private investments at a very low cost to the government." To read the entire transcript of the hearing, click here.

Possible Conservative Concerns: **Some conservatives may be concerned that this legislation would create a new federal program, at a cost of $54.5 million over five years, to serve a function that is similar to numerous other programs. In addition, some conservatives might be concerned that this legislation would alter the definition of an "independently owned and operated business" such that businesses that are owned and operated by venture capital firms with up to 500 employees would be eligible to receive financing for research and testing grants through Small Business Administration programs.**

Further, some conservatives argue that the current SBA federal investment programs for small business (private sector) are duplicative of private-sector efforts and opportunities and are counterproductive to fostering competitiveness, growth, and ingenuity in U.S. small businesses. Some conservatives may also be concerned that SBA programs are intended to spur private sector investment that benefits private sector small businesses and, as such, may be beyond the proper scope of the federal government.

RSC Bonus Fact: If H.R. 3567 were to be adopted by the House, it would be the tenth SBA expansion or extension passed by the House in the 110th Congress.

Committee Action: H.R. 3567 was introduced on September 18, 2007, and referred to the Committee on Small Business, which held a mark-up two days later and reported the bill by voice vote.

Administration Position: According to a Statement of Administration Policy (SAP), issued on September 26, 2007, the Administration "strongly opposes" the proposed Angel Investor Program and the change in the definition of an "independently owned and operated" business. Thus, the Administration "strongly opposes" H.R. 3567.

Cost to Taxpayers: According to CBO, H.R. 3567 would authorize $38 million in FY 2008 and $102 million over the FY 2008 – FY 2009 period.

Does the Bill Expand the Size and Scope of the Federal Government? Yes, the bill creates a new federal investment and grant program. The bill would also change the definition of an "independently owned and operate business," which would allow venture capital firms that operate small business to be eligible for financing through the Small Business Administration.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates? No.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The Small Business Committee, in House Report 110-347, asserts that, "H.R. 3567 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI."

Constitutional Authority: The Small Business Committee, in House Report 110-347, cites constitutional authority in Article I, Section 8, Clause 18 (the necessary and proper clause).

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